IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

TUESDAY, THE 12TH JUNE 2007 / 22ND JYAISHTA 1929

Mat.Appeal.No. 35 of 2007()

AGAINST THE ORDER DATED 29/09/2006 IN IA.726/06,727/06 IN OP.284/2005 of FAMILY COURT, MALAPPURAM

.....

PETITIONER: APPELLANT:

PULIVEETI ABDUL MAJEED,
S/O.MUHAMMED, ANCHACHAVIDI, THUVAPPATTA,
VALLAYOOR, KALIKKAVU.

BY ADV. SRI.K.P.MUJEEB

RESPONDENTS:

MUHAMMED, S/O.MUHAMMED,
REPRESENTED BY THE POWER OF ATTORNEY HOLDER
KHADEEJA, W/O.MUHAMMED, THEKKUMPADY HOUSE,
MAYLAM PARA, KARULAI.

BY ADV. SRI.K.JAYAKUMAR

THIS MATRIMONIAL APPEAL HAVING BEEN FINALLY HEARD ON 12/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON I.A.NO.230/2007 IN L.A.A.NO.35/2007

DISMISSED.

12-6-2007 SD/- KURIAN JOSEPH, JUDGE

SD/- T.R.RAMACHANDRAN NAIR, JUDGE

/ TRUE COPY /

KURIAN JOSEPH & T.R.RAMACHANDRAN NAIR,JJ.

Mat.Appeal.No.35 of 2007

Dated this the 12th day of June, 2007

JUDGMENT

Kurian Joseph,J.

This appeal is filed against the order dated 29-9-2006 on the file of the Family Court in I.A.No.726/2006 and I.A.No.727/2006 in O.P.No.284/2005 whereby the Family Court declined to condone the delay in filing an application for setting aside the ex parte order and the application itself was consequently dismissed. After having extensively heard Sri.Jayakumar, learned counsel appearing for the respondent and also the learned counsel for the petitioner, we are of the view that it is only in the interests of justice that the appellant is given an opportunity to contest the case on merits before the Family Court by putting him on terms. In that view of the matter it is not necessary for this court to extensively deal with the factual background of the case, lest any observation should otherwise affect the outcome of the original petition itself. We set aside the orders passed by the Family Court referred to above. The

applications are allowed and O.P.No.284/2005 is restored to file. The parties shall appear before the Family Court, Malappuram on 9-7-2007. The O.P will be disposed of within another six months. The appellant will pay costs to the tune of Rs.5,000/- through the counsel appearing for the respondent herein within a period of two weeks from today and produce the memo before the Family Court and if not the appeal will stand dismissed.

(KURIAN JOSEPH, JUDGE)

(T.R.RAMACHANDRAN NAIR, JUDGE)

ahg.